IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 22623 of 2000

Between:

R.Bhaskar, S/o. Late Ramachandra Naidu,
AP State Road Transport Corporation, Tirupati-I,

R/o. Bazar Street, Near Post Officer,
Narayanavanam Post, Puttur Taluk, Chittoor District.

..... PETITIONER

AND

1 The Regional Manager, A.P.S.R.T.C.,
Tirupati, Chittoor District.
2 The Deputy Chief Traffic Manager (G), A.P.S.R.T.C.,
Tirupati, Chittoor District.
3 The Depot manager, A.P.S.R.T.C.,
Tirupati-I, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the proceedings No.PA/95/(42)/99-TPT-I, dt. 27-5-1999 issued by the third respondent; whereunder the petitioner was removed from service and the order of the second respondent in proceedings No.Steno/20(69)/99-RM(T), dt.29-12-1999 and also the order of the first Respondent in proceedings No.PA/20(8)/2000-RM 'T', dt. 7-8-2000, as illegal, improper, unjust and contrary to law and further declare that the punishment of removal from service imposed on the petitioner is too excessive and also declare that the petitioner is entitled for reinstatement into service with all consequential benefits.

Counsel for the Petitioner: MR.P.GANGAIAH NAIDU

Counsel for the Respondents: MR.P.VINAYAKA SWAMY, SC FOR APSRTC

The Court made the following:

ORDER:

Heard Sri P.Gangaiah Naidu, learned Counsel appearing for the petitioner and also Sri P.Vinayaka Swamy, learned Standing Counsel appearing for the respondent-Corporation. At their request, the main writ petition itself is taken up for disposal.

The petitioner herein, who has been working as a conductor in the respondent-Corporation, filed this writ petition *interalia* seeking a writ of Mandamus declaring the proceedings dated 27-5-1999 passed by the third respondent herein removing him from service and also subsequent proceedings in appeal and revision dated 29-12-1999 and 7-8-2000 passed by the second and third respondents as illegal.

The only question which is sought to be urged on behalf of the petitioner is that the punishment of removal from service imposed against the petitioner is quite higher than the gravity of the charges leveled against him.

The facts, in brief, are that the petitioner was initially appointed as conductor in the respondent-corporation in April, 1978, and has been discharging his duties as such. On 16-2-1999, while he was conducting the bus, a check was made and certain irregularities were found whereupon the charge Memo.No.PA/95 (42)/99-TPT-I, dated 3-3-19999 was issued to the following effect:

> "1.For having violated the rule 'Issue and Start', which constitutes misconduct under Reg.28 (xxxii) of APSRTC Employees (Conduct) Reg.1963.
>
> 2.For having issued ticket Nos.191/473748 to 473750 of Rs.9/- denomination without proper punching on sighting the TTIs at alighting point (Srikalahasti) to a batch of 3 lady passengers who

boarded the bus at Renigunta and found alighting at Srikalahasthi ex.stages 2 to 3 despite collecting the fare of Rs.27-00 (Rs.9/-) from them at the boarding point itself, which constitutes misconduct under Reg.28 (vi, a) of APSRTC Employees" (Conduct) Reg.1963.

3.For having failed to show the number of ticket issue of Rs.9/- denomination in the relevant issue column against stage No.2, which constitutes misconduct under Reg.28(xxxii) of ApSRTC Employees" (Conduct) Reg.1963.

4.For having failed to close the SR of Rs.9/- denomination properly between stage numbers 2 and 3 which constitutes misconduct under Reg.28(xxxii) of APSRTC Employees (Conduct) Reg.1963.

5.For having forcibly taken the passengers' statement from the service Driver and torn the same into pieces, which constitute misconduct under Reg.28 (xxxii) of APSRTC Employees (Conduct) Reg.1963.

6.For having refused to sign in the Charge Memo i.e., MTD-353 when asked by the checking office at the time of check, which constitutes misconduct under Reg.28 (xxxii) of APSRTC Employees (Conduct) Reg.1963."

The petitioner submitted a detailed explanation on 11-3-1999 denying all the charges leveled against him, and an enquiry was also conducted. But, the third respondent-enquiry officer issued show cause notice of removal from service *vide* proceedings No.PA/R5(42)/99-TPT-I, dated 17-5-1999 giving five days time for his explanation. Again the petitioner submitted a detailed explanation on 25-5-1999 but the third respondent issued proceedings No.PA/95(42)/99, TPT-I, dated 27-5-1999 removing him from service. Further the appeal and the review filed by the petitioner were also rejected. Hence, the writ petition.

Considering the submissions made on either side, and also on perusal of the entire material available on record, it is to be seen that all the charges framed against the petitioner are only with regard to the violation of the rule 'issue and start' and issuance of 3 tickets of Rs.9/- denomination without properly punching. No doubt, the petitioner gave a sufficient and valid explanation, but the respondents did not found the same to be satisfactory. Ultimately the petitioner was removed from service, even though the charges leveled against him do not disclose any serious

violation or any misappropriation on his part, which warrant his removal from service.

The learned Counsel appearing for the petitioner pressed into service the principles laid down by a Division Bench of this Court in ***Y.R.Shetti vs. Depot Manager, A.P.S.R.T.C. and another***. In the said judgment, while considering the extent of punishment, which has to be imposed, it was held that the same necessarily has to meet the requirement of the charge. In the said case also virtually the allegations, which were made against the employee therein, were found to be not warranting over a serious punishment of removal from service.

Following the same, it is to be seen that in this case there being no such serious misconduct as such, the order of removal as passed by the respondents is quite disproportionate to the proved misconduct. Be that as it may, having regard to the fact that the petitioner has put in long length of service and the charges framed against him being not so serious, it would suffice in the interest of justice to set aside the order of his removal from service and convert the same into order for fresh appointment.

The writ petition is accordingly allowed. The impugned orders to the effect of removal of the petitioner from service are set aside. However, the respondents are directed to consider the petitioner's case for fresh appointment and pass appropriate order on merits. There shall be no order as to costs.

06-04-2005

LUR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the acting Chief Justice on this

Wednesday, the sixth day of April, Two thousand and five.

REGISTRAR

Copy to

1 The Regional Manager, A.P.S.R.T.C.,
Tirupati, Chittoor District.
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4 2 CD copies

5 1 CC to MR.GANGAIAH NAIDU